

BEFORE THE  
DEPARTMENT OF TRANSPORTATION  
WASHINGTON, D.C.

-----  
Joint Application of

CONTINENTAL AIRLINES, INC.,  
CONTINENTAL MICRONESIA, INC.,  
COLGAN AIR, INC.  
DEUTSCHE LUFTHANSA AG  
LUFTHANSA CITYLINE GMBH  
AIR DOLOMITI S.P.A. LARE  
CONDOR FLUGDIENST GMBH  
PRIVATAIR GMBH  
PRIVATAIR S.A.  
CONTACT AIR FLUGDIENST GMBH & CO.  
EUROWINGS LUFTVERKEHRS AG  
and  
CIRRUS AIRLINES  
LUFTFAHRTGESELLSCHAFT MBH

for statements of authorization pursuant to  
14 C.F.R. Part 212 to engage in codesharing  
-----

-----  
Application of

CONTINENTAL AIRLINES, INC.

for an exemption under 49 U.S.C. § 40109  
-----

Docket DOT-OST-2009-\_\_\_\_

JOINT APPLICATION OF CONTINENTAL AIRLINES, INC.; CONTINENTAL  
MICRONESIA, INC.; COLGAN AIR, INC.; DEUTSCHE LUFTHANSA AG;  
LUFTHANSA CITYLINE GMBH; AIR DOLOMITI S.P.A. LARE; CONDOR  
FLUGDIENST GMBH; PRIVATAIR GMBH; PRIVATAIR S.A.; CONTACT AIR  
FLUGDIENST GMBH & CO.; EUROWINGS LUFTVERKEHRS AG; AND  
CIRRUS AIRLINES LUFTFAHRTGESELLSCHAFT MBH

Communications with respect to this document should be sent to:

Rebecca G. Cox  
Senior Vice President, Government Affairs  
CONTINENTAL AIRLINES, INC.  
1350 I Street, NW  
Washington, DC 20005-3389

Hershel I. Kamen  
Vice President, Security and Regulatory Affairs  
Daniel A. Weiss  
Managing Director, International Policy  
& Regulatory Affairs  
CONTINENTAL AIRLINES, INC.  
P.O. Box 4607 – HQSGV  
Houston, TX 77210-4607

R. Bruce Keiner, Jr.  
Gerald F. Murphy  
CROWELL & MORING LLP  
1001 Pennsylvania Avenue, NW  
Washington, DC 20004-2595  
(202) 624-2615  
[rbkeiner@crowell.com](mailto:rbkeiner@crowell.com)  
[gmurphy@crowell.com](mailto:gmurphy@crowell.com)

Counsel for  
Continental Airlines, Inc.  
and Continental Micronesia, Inc.

David Heffernan  
WILMER CUTLER PICKERING HALE  
AND DORR LLP  
1875 Pennsylvania Avenue, NW  
Washington, DC 20006  
(202) 663-6360  
[david.heffernan@wilmerhale.com](mailto:david.heffernan@wilmerhale.com)

Counsel for  
Deutsche Lufthansa AG

July 27, 2009

Thomas Newton Bolling  
Managing Attorney, Regulatory  
CONTINENTAL AIRLINES, INC.  
P.O. Box 4607 – HQSLG  
Houston, TX 77210-4607  
(713) 324-56906  
[thomas.bolling@coair.com](mailto:thomas.bolling@coair.com)

Jeffrey A. Smisek  
President and Chief Executive Officer  
CONTINENTAL MICRONESIA, INC.  
P.O. Box 4607 – HQSCD  
Houston, TX 77210-4607  
[jeffrey.smisek@coair.com](mailto:jeffrey.smisek@coair.com)

Arthur J. Molins  
General Counsel, North America  
DEUTSCHE LUFTHANSA AG  
1640 Hempstead Turnpike  
East Meadow, NY 11554  
(516) 296-9234  
[arthur.molins@dlh.de](mailto:arthur.molins@dlh.de)

Brian T. Hunt  
Vice President & General Counsel  
PINNACLE AIRLINES CORP.  
1689 Nonconnah Blvd.  
Suite 111  
Memphis, TN 38132  
(901) 346-6145  
[BTHunt@pncl.com](mailto:BTHunt@pncl.com)

Counsel for  
Colgan Air, Inc.

Malcolm L. Benge  
ZUCKERT, SCOUTT & RASENBERGER,  
L.L.P.  
888 Seventeenth Street, NW  
Washington, DC 20006  
[mlbenge@zsrlaw.com](mailto:mlbenge@zsrlaw.com)

Counsel for  
PrivatAir GmbH  
and PrivatAir S.A.

BEFORE THE  
DEPARTMENT OF TRANSPORTATION  
WASHINGTON, D.C.

-----  
Joint Application of :  
 :  
CONTINENTAL AIRLINES, INC., :  
CONTINENTAL MICRONESIA, INC., :  
COLGAN AIR, INC., :  
DEUTSCHE LUFTHANSA AG :  
DEUTSCHE LUFTHANSA AG :  
LUFTHANSA CITYLINE GMBH :  
AIR DOLOMITI S.P.A. LARE :  
CONDOR FLUGDIENST GMBH :  
PRIVATAIR GMBH :  
PRIVATAIR S.A. :  
CONTACT AIR FLUGDIENST GMBH & CO. :  
EUROWINGS LUFTVERKEHRS AG :  
and :  
CIRRUS AIRLINES :  
LUFTFAHRTGESELLSCHAFT MBH :  
 :  
for statements of authorization pursuant to :  
14 C.F.R. Part 212 to engage in codesharing :  
-----

-----  
Application of :  
 :  
CONTINENTAL AIRLINES, INC. : Docket DOT-OST-2009-\_\_\_\_\_  
 :  
 :  
for an exemption under 49 U.S.C. § 40109 :  
-----

JOINT APPLICATION OF CONTINENTAL AIRLINES, INC.; CONTINENTAL  
MICRONESIA, INC.; COLGAN AIR, INC.; DEUTSCHE LUFTHANSA AG;  
LUFTHANSA CITYLINE GMBH; AIR DOLOMITI S.P.A. LARE; CONDOR  
FLUGDIENST GMBH; PRIVATAIR GMBH; PRIVATAIR S.A.; CONTACT AIR  
FLUGDIENST GMBH & CO.; EUROWINGS LUFTVERKEHRS AG; AND  
CIRRUS AIRLINES LUFTFAHRTGESELLSCHAFT MBH

Continental, Continental Micronesia, Colgan, Lufthansa and certain European carriers that operate flights on behalf of Lufthansa,<sup>1</sup> apply pursuant to Part 212 of the Department's regulations, for statements of authorization to provide reciprocal Continental/Lufthansa codeshare services in foreign air transportation pursuant to the U.S.-EU and U.S.-Switzerland open skies agreements.<sup>2</sup> Continental also applies, pursuant to 49 U.S.C. § 40109 and Rule 302 of the Department's Rules of Practice, for an exemption from 49 U.S.C. § 41101 authorizing Continental to provide codeshare service at points served by Lufthansa which are neither in open-skies countries nor listed in Continental's certificate or exemption authority upon 30 days' notification to the Department, just as Continental has been allowed to do with other codeshare partners.<sup>3</sup>

Continental and Lufthansa state as follows in support of their applications.

1. The applicants request authority to provide valuable U.S.-Germany and third country codeshare services which will serve the public interest. Continental and Lufthansa

---

<sup>1</sup> Common names of carriers are used. Unless the context requires otherwise, when used in this application, the term "Continental" includes Continental Micronesia and Colgan; and the term "Lufthansa" includes Lufthansa CityLine GmbH ("Lufthansa CityLine"); Air Dolomiti S.p.A. LARE ("Air Dolomiti"); Condor Flugdienst GmbH ("Condor"); PrivatAir GmbH ("PrivatAir GmbH"); PrivatAir S.A. ("PrivatAir S.A."); Contact Air Flugdienst GmbH & Co. ("Contact Air"); Eurowings Luftverkehrs AG ("Eurowings"); and Cirrus Airlines Luftfahrtgesellschaft mbH ("Cirrus Airlines") (collectively, the "Lufthansa Codeshare Carriers"). Continental Micronesia and Colgan will not be placing their own codes on flights operated by Lufthansa; similarly, none of the Lufthansa Codeshare Carriers will be placing their codes on flights operated by Continental.

<sup>2</sup> Continental and Lufthansa have been granted antitrust immunity in Docket DOT-OST-2008-0234. See Order 2009-7-10. Copies of the relevant codeshare documents between Continental and Lufthansa have been submitted in that docket. Continental and Lufthansa expect to commence codesharing sales and operations as soon as Continental is free of restrictions in its SkyTeam agreements that preclude it from doing so immediately.

<sup>3</sup> See Notice of Action Taken dated March 9, 2007, in Docket DOT-OST-2005-20122.

codeshare service will expand airline competition on international routes to benefit passengers and shippers and expand the Continental and Lufthansa networks. Moreover, the blanket codeshare statements of authorization requested will “give the applicants flexibility to meet marketplace demands and . . . enable them to maximize the rights available under . . . open-skies agreement[s],” as the Department has concluded in approving other blanket codeshare applications.<sup>4</sup> Continental and Lufthansa will notify the Department no later than 30 days before commencing any codeshare services to non-open skies points for which Continental does not otherwise hold authority.

2. Continental and Lufthansa request blanket statements of authorization to implement their proposed codeshare service and notify the Department that, upon grant of this application, they intend to provide open-skies codeshare services in accordance with the Department’s Notice In the Matter of Blanket Notification of Code-Share Service to Open-Skies Partners and Points dated February 9, 2009 (“Blanket Codeshare Notice”). Specifically, Continental and Lufthansa seek statements of authorization permitting Continental to display the LH\* code on Continental flights and Lufthansa to display the CO\* code on Lufthansa flights in conjunction with foreign air transportation of persons, property, and mail: (i) between any point or points in the United States and any point or points in the European Union (EU) (on a nonstop basis and on routings via intermediate open skies points); (ii) between any point or points in the United States and any other point or points in the European Common Aviation Area (ECAA) and Switzerland where an open-skies agreement is being applied; (iii) between U.S. points; (iv) between EU points; (v) beyond the EU and Switzerland to any point or points; and (vi) beyond

---

<sup>4</sup> See Order 1998-4-8 at 3.

the U.S. to any point or points.<sup>5</sup> Similar blanket codeshare authority has been granted to numerous codeshare partnerships involving U.S. and foreign airlines.<sup>6</sup>

3. Continental and Lufthansa already hold blanket underlying authority to conduct operations and offer codeshare service on open-skies routes as well as on routes for which they hold specific authority.<sup>7</sup> Continental requires supplemental exemption authority to implement the proposed codeshare agreements and maximize its flexibility to provide global codeshare service by placing its code on Lufthansa flights serving points for which Continental does not

---

<sup>5</sup> The LH\* code will also be displayed on flights operated by other Continental codeshare partners operating aircraft with fewer than 60 seats. Pursuant to sections 206.5, 212.1 and 298.11 of the Department's regulations, no statement of authorization is required for such codeshare services. Since Colgan offers Continental codeshare service on aircraft with more than 60 seats, however, Colgan requires a statement of authorization to place the LH\* code on its flights.

<sup>6</sup> See, e.g., Statement of Authorization 93-394, dated August 6, 1998 (Delta/Korean); Department Action dated March 11, 2003, in Docket DOT-OST-2003-14367 (Comair and Atlantic Southeast/Korean); Department Action dated December 19, 2002, in Docket DOT-OST-2002-13320 (United/Asiana); and Department Action dated April 26, 2002, in Docket DOT-OST-2002-11459 (Delta/China Airlines).

<sup>7</sup> Continental holds blanket authority to serve open skies countries pursuant to its Certificate for Route 836, issued by Order 2007-4-19, and Lufthansa holds open skies authority pursuant to its foreign air carrier permit, issued by Order 2008-1-20. The Lufthansa Codeshare Carriers either already hold the necessary underlying authority or are in the process of applying for such authority, as follows: Lufthansa CityLine has been issued exemption authority by Notice of Action Taken dated August 30, 2007, in Docket DOT-OST-2003-15485; Air Dolomiti has been issued exemption authority by Notice of Action Taken dated May 13, 2009, in Docket DOT-OST-2005-20657, and by Notice of Action Taken dated April 17, 2002, in Docket DOT-OST-2002-11856 (renewal pending); Condor holds an open skies foreign air carrier permit (Order 2008-5-10); PrivatAir GmbH has been issued exemption authority by Notice of Action Taken dated April 8, 2008, in Docket DOT-OST-2003-14360; PrivatAir S.A. has been issued exemption authority by Notice of Action Taken dated March 29, 2007, in Docket DOT-OST-2001-8859 (renewal pending); Contact Air has been issued exemption authority by Notice of Action Taken dated June 8, 2009, in Docket DOT-OST-2009-0103; and Eurowings has been issued exemption authority by Notice of Action Taken dated June 8, 2009, in Docket DOT-OST-2009-0106, and by Notice of Action Taken dated May 13, 2009, in Docket DOT-OST-2005-20658. Cirrus Airlines shortly will be filing an application for the necessary exemption authority.

otherwise hold authority. Thus, Continental requests exemption authority to provide codeshare service at points served by Lufthansa which are neither in open-skies countries nor listed in Continental's certificate or exemption authority upon 30 days' notification to the Department, just as Continental has been allowed to do with Air France, COPA, KLM, KLM CityHopper, Exel, CSA and Korean.<sup>8</sup>

4. The proposed Continental and Lufthansa codesharing is consistent with the European Union open skies agreement, which authorizes liberal codesharing between U.S. and EU airlines, the open skies agreement with Switzerland, which also contains liberal codesharing rights, and the Department's authorization of comparable codesharing between United and Lufthansa and between Delta and Northwest and Air France-KLM.<sup>9</sup>

5. Continental and Lufthansa will notify the Department no later than 30 days before commencing any codeshare services to non-open skies points not specified in their certificate, permit or exemption authority, and they accept the Department's standard conditions on limited-entry third-country codeshare services.<sup>10</sup> Continental and Lufthansa will conduct their codesharing activities in compliance with Part 257 of the Department's regulations and any other applicable rules and regulations. The codesharing authority requested here will have no impact on Continental's Civil Reserve Air Fleet commitments. Continental will communicate with the Federal Aviation Administration regarding safety audits of Lufthansa.

---

<sup>8</sup> See Notice of Action Taken dated March 1, 2005, in Docket DOT-OST-2005-20122; Notice of Action Taken dated January 31, 2005, in Docket DOT-OST-2004-19346; and Notice of Action Taken dated February 11, 2005, in Docket DOT-OST-2004-19420,.

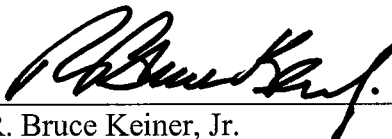
<sup>9</sup> See Orders 1998-4-8 and 2006-2-1.

<sup>10</sup> See Blanket Codeshare Notice, at 2 n.4; and Order 2003-5-33, Appendix 4.

For the foregoing reasons, Continental, Continental Micronesia and Colgan, along with Lufthansa and the Lufthansa Codeshare Carriers, urge the Department to grant their joint application for statements of authorization and Continental's application for an exemption authorizing it to provide codeshare service at points served by Lufthansa which are neither in open-skies countries nor listed in Continental's certificate or exemption authority upon 30 days' notification to the Department.


Respectfully submitted,

CROWELL & MORING LLP

  
R. Bruce Keiner, Jr.  
[rbkeiner@crowell.com](mailto:rbkeiner@crowell.com)

Counsel for  
Continental Airlines, Inc.  
and Continental Micronesia, Inc.

WILMER CUTLER PICKERING HALE  
AND DORR LLP

  
David Heffernan  
[david.heffernan@wilmerhale.com](mailto:david.heffernan@wilmerhale.com)

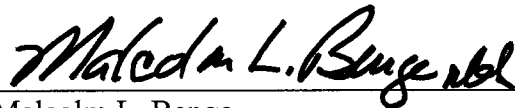
Counsel for  
Deutsche Lufthansa AG

GAROFALO GOERLICH HAINBACH PC

  
Brian T. Hunt  
[BTHunt@pncl.com](mailto:BTHunt@pncl.com)

Counsel  
for Colgan Air, Inc.

ZUCKERT, SCOUTT AND RASENBERGER,  
L.L.P.

  
Malcolm L. Bengel  
[mlbenge@zsrlaw.com](mailto:mlbenge@zsrlaw.com)

Counsel for  
PrivatAir GmbH  
and PrivatAir S.A.

July 27, 2009

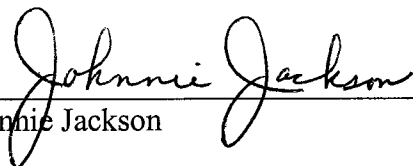


CERTIFICATE OF SERVICE

I certify that I have this date served the foregoing document on the following persons in  
accordance with the Department's Rules of Practice:

rsilverberg@sbgdc.com (ABX)  
msinick@ssd.com (Alaska/Horizon)  
carl.nelson@aa.com (American)  
irichardson@johnrichardson.com (Amerijet)  
pmurphy@lop Murphy.com (Arrow)  
slachter@lachter-clements.com (ASTAR)  
rpommer@atlasair.com (Atlas)  
sascha.vanderbellen@delta.com (Delta)  
charters@evergreenairlines.com (Evergreen)  
nssparks@fedex.com (FedEx)  
efaberman@wileyrein.com (Frontier)  
mroller@rollerbauer.com (Gemini)

jhill@dowlohn.com (Hawaiian/JetBlue)  
matwood@sherblackwell.com (Kalitta)  
jamestello@earthlink.net (Miami Air)  
mlbenge@zslaw.com (North American/World)  
kevin.montgomery@polaraircargo.com (Polar)  
temerson@skywest.com (SkyWest)  
agoerlich@ggh-airlaw.com (Southern)  
dkirstein@yklaw.com (Spirit)  
john.fredericksen@suncountry.com (Sun Country)  
dvaughan@kelleydrye.com (UPS)  
jeffrey.manley@united.com (United)  
howard.kass@usairways.com (US Airways)

  
\_\_\_\_\_  
Johnnie Jackson

July 27, 2009

DCIWDMS: 8458294\_1